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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,684	05/17/1999	Nigel Terrence Plummer	1620/3	2671

7590

04/03/2003

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EXAMINER

PRATT, HELEN F

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 04/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

09/284,684

Plummer

Examiner

Group Art Unit

Pratt, H.

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4-15-94 Preliminary Amendment.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 19-36 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 19-36 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Objections

1. The numbering of claims is not accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-18 been renumbered claims 19-36. and original claims 1-18 canceled as requested. No original claims 19-21 were present before the preliminary amendment.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 20, 21, 24-30, 33-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Ponzoni et al..

Ponzoni et al. disclose as in claims 19-21, 24, a method of delivering vitamins by adding vitamins in a soluble form to a coffee extract liquid (liquid carrier and natural material) and freeze drying (col. 2, lines 20-47). The amount of vitamins are seen to be calculated as a particular amount of vitamins are added to the composition, as in claim 25, and the mix is ground

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and then freeze dried, thereby making discrete units as in claim 26. Choosing the amount of vitamins for each unit is seen to be inherent in adding vitamins, and would make for a predetermined dose of vitamins as in claim 27. A simple fraction of the RDA's is seen to be disclosed by the % of vitamins in the mixture as in claim 28 and the product of the vitamin and ingestible carrier is disclosed as above (abstract) as in claim 29, and the carrier is coffee extract which is a natural material as in claim 30. The limitations as to claims 33-36 have been disclosed above.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 23, and 32, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ponzoni et al. in view of Gottlieb et al. , Alexander, Langer et al. and Leo.

Claims 22, 23, 32, and 33 further require that the carrier is fruit and in particularly fruit juice or fruit pulp. Gottlieb et al. disclose that it is known to add ascorbic acid (vitamin C.) to carrots and to freeze dry the carrots. (col. 2, lines 20-56). Alexander disclose that it is well known to add vitamins to fruit mixtures (page 1, lines 45-51 and lines 1-90, and page 2, lines 20-23). Langer et al. disclose that it is known to add vitamins to juices (abstract). Leo discloses

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that it is known to freeze dry pastes of meat, vegetables, and minerals which are combined (abstract). No patentable distinction is seen at this time between fruits and vegetables as they are both materials which contain basically the same ingredients except one is sweeter than the other. As it is known to add vitamins to fruit mixtures and juices, it would have been obvious to freeze dry such because freeze dried vegetable carriers are known such as minced carrots or vegetable paste with added vitamins and minerals are known, and there is no patentable distinction between fruits and vegetables, and it would therefore have been obvious to use fruit paste or juices, instead of vegetable paste or minced carrots in place of the coffee extract of Ponzoni which has been mixed with vitamins to make a freeze dried vitamin added fruit product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Pratt whose telephone number is (703) 308-1978. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David Lacey, can be reached on (703) 308-3535. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3602 (unofficial faxes), **after final faxes 703 305 3599, and other official faxes 703 305 7718**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


HELEN PRATT